

REMARKS

Claims 1-9 are all the claims pending in the application.

I. Objection to the Drawings

The Examiner has objected to the drawings for the reasons set forth on pages 2-3 of the Office Action. Applicant is submitting herewith replacement sheets for Figs. 2a-2c, 3a-3c, 4a-4c, 6a-6c, 7a-7c, 8a-8c, 9a-9c, 10a-10c and 11a-11c which address the Examiner's objections regarding the cross hatching, the pin 6 and the corresponding hole.

In addition, regarding reference character "15", Applicant notes that reference character 15 is used consistently throughout the specification and the drawings to refer to an extension arm with the same configuration.

In view of the foregoing, Applicant kindly requests that the objections to the drawings be reconsidered and withdrawn.

II. Claim Rejections under 35 U.S.C. § 102

A. The Examiner has rejected claims 1-6, 8 and 9 under 35 U.S.C. § 102(b) as being anticipated by EP 0 694 460 ("the '460 reference"). Applicant respectfully traverses this rejection on the following basis.

Claim 1 recites that a locking device and a securing hook are arranged such that both the locking device and the securing hook are operable to act on a side extension arm of a vehicle, wherein the locking device is arranged in relation to the securing hook such that a release of the locking device leads to a release of the securing hook from an anchorage position.

In the amendment filed on May 27, 2005, Applicant argued that the '460 reference does not disclose or suggest the above-noted features. In the present Office Action, the Examiner has taken the position that the above-noted features are "mere abstract ideas" to which no structure can be associated (see Office Action at page 7). Applicant respectfully disagrees.

In particular, Applicant submits that the above-noted features are not mere abstract ideas, but instead, are functional limitations which define the structural arrangement of the claimed apparatus.

In this regard, Applicants note that the MPEP specifically points out that there is nothing intrinsically wrong in defining something by what it does rather than by what it is. See MPEP §2173.05(g). A functional limitation must be evaluated and considered, just like any other limitation of the claim, for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used." See MPEP §2173.05(g) (emphasis added).

Functional limitations of an apparatus claim are not significant in determining patentability of an apparatus claim only to the extent that such recitations do not add structural limitations to the claim. The functional limitations in claim 1, however, clearly add structural limitations to the claim because the functional limitations necessitate structure that is capable of performing the recited functions.

In other words, the functional recitations in claim 1 require that the locking device and securing hook be constructed and structurally arranged such that the claimed transport securing arrangement is able to perform the functional limitations recited therein. Thus, in order for a

prior art reference to meet a functional limitation in an apparatus claim, the prior art structure must inherently be capable of performing that function.¹

Applicant respectfully submits that the structure disclosed in the '460 reference does not perform that above-noted functional limitations, and is also not inherently capable of performing such functions.

In particular, Applicants note that the '460 reference discloses a horizontal beam 1 which is displaceable in a housing 2 (see Figs. 2a-2c). When the beam 1 is not properly bolted in a closed position (i.e., when the beam 1 is not locked inside the housing 2), a rotatable lever 3 projects over the end of the beam 1, thereby acting as a signal that the beam 1 is not locked in the locked position (see Figs. 2c and 3c).

As shown in Fig. 3c of the '460 reference, when the beam 1 is extended outside of the housing 2, the lever 3 is fixed in the downward position (i.e., the signaling position) by a detent member 11 which engages an end portion 10 of the lever 3. By moving the beam 1 toward the housing 2, the detent member 11 engages a protrusion 12 on the housing, thereby releasing the end portion 10 of the lever 3 from the detent member (see Fig. 3b).

Upon release of the end portion 10 of the lever 3 from the detent member 11, a spring 8 acts so as to pivot the lever 3 upwardly due to the spring 8 (see Figs. 2b and 3b). When the lever 3 is rotated upwardly, a claw 4 on the lever 3 engages a round bar 5 on the housing 2 so as to fix the beam 1 in the housing 2 (see Figs. 2a-2c).

¹For example, a limitation to "a container operable to hold therein a liquid in a leaktight manner" is clearly functional in nature, but imparts a structural limitation that distinguishes the container from a colander, which is a container having many holes. That is, the colander is not capable of performing the recited function and, therefore, does not meet the limitation.

As noted above, claim 1 recites that the locking device is arranged in relation to the securing hook such that a release of the locking device leads to a release of the securing hook from an anchorage position.

In the Office Action, the Examiner takes the position that the detent member 11 corresponds to a “locking device” and that the end portion 10 of the lever 3 corresponds to a “securing hook” (see Office Action at page 4). Accordingly, the Examiner is alleging that a release of the detent member 11 leads to a release of the end portion 10 of the lever 3. Applicant respectfully disagrees.

In particular, as discussed above, Applicant notes that the release of the detent member 11 from the end portion 10 of the lever 3 leads to the lever 3 being pivoted upwardly, thereby securing the beam 1 in the housing 2 (see Fig. 3a). Thus, in the ‘460 reference, Applicant submits that the release of the detent member 11 from the end portion 10 of the lever 3 clearly does not lead to a release of the end portion 10 of the lever from an anchorage position, but instead, results in the end portion 10 of the lever 3 being moved to an anchorage position (i.e., the position in which the beam 1 is secured in the housing 2).

Thus, as the release of the detent member 11 leads to the end portion 10 of the lever 3. leads being moved to an anchorage position, Applicant respectfully submits that the ‘460 reference does not disclose or suggest the feature of a locking device being arranged in relation to a securing hook such that a release of the locking device leads to a release of the securing hook from an anchorage position, as recited in claim 1.

In view of the foregoing, Applicant respectfully submits that claim 1 is patentable over the cited prior art, an indication of which is kindly requested. Claims 2-6, 8 and 9 depend from claim 1 and are therefore considered patentable at least by virtue of their dependency.

In addition, regarding claim 6, Applicant notes that this claim recites that the release of the locking device is independent of a direction of rotation of the locking device. Applicant respectfully submits that the '460 reference also fails to disclose or suggest such a feature.

In particular, Applicant notes that while the detent member 11 is pivoted upon its engagement with the protrusion 12 so as to be released from the end portion 10 of the lever 3, the release of the detent member 11 is clearly not independent of the direction of rotation of the detent member 11 (see Fig. 3b). In view of the foregoing, Applicant submits that claim 6 is patentable over the '460 reference, an indication of which is kindly requested.

Further, regarding claim 8, Applicant notes that this claim recites that the locking device is urged in a direction of a locking position by the spring. In support of this feature, the Examiner has pointed to col. 1 of the '460 reference which recites the phrase "spring action." Accordingly, the Examiner asserts that there must be a spring.

Indeed, as discussed above, Applicant notes that a spring 8 is provided which, upon release of the end portion 10 from the detent member 11, rotates the lever 3 in an upward position so as to have the claw 4 engage the round bar 5, thereby securing the beam 1 in the housing.

Thus, while the spring 8 is used to move the claw 4 to a locking position, the spring 8 is clearly not used to urge the detent member 11 to a locking position. Accordingly, Applicant

respectfully submits that the '460 reference fails to disclose or suggest that the locking device is urged in a direction of the locking position by a spring, as recited in claim 8. Thus, Applicant submits that claim 8 is patentable over the '460 reference, an indication of which is kindly requested.

B. The Examiner has rejected claims 1, 4 and 7 under 35 U.S.C. § 102(b) as being anticipated by Murphy (U.S. 4,943,181). Applicant respectfully traverses this rejection on the following basis.

As noted above, claim 1 recites that a locking device and a securing hook are arranged such that both the locking device and the securing hook are operable to act on a side extension arm of a vehicle, wherein the locking device is arranged in relation to the securing hook such that a release of the locking device leads to a release of the securing hook from an anchorage position.

As noted above, the Examiner has taken the position that the above-noted features are "mere abstract ideas" to which no structure can be associated. For the reasons discussed above in section "A", Applicant respectfully disagrees and submits that such features are functional limitations of the claim that must be considered and evaluated just like any other limitation of a claim for what it fairly conveys to a person of ordinary skill in the pertinent art in the context in which it is used. See MPEP §2173.05(g).

Regarding the Murphy reference, Applicant notes that this reference discloses a locking device that is used to lock a tooling attachment 14 to a boom 12 (see col. 4, lines 30-33). In Murphy, the locking device includes a cam arrangement 15 and a locking member 13 (see col. 3,

lines 5-7). As shown in Figs. 4 and 5 of Murphy, the cam arrangement 15 and locking member 13 can engage and disengage with one another so as to lock and unlock the tooling attachment 14 to/from the boom 12 (see col. 4, lines 25-40).

As noted above, claim 1 recites that the locking device and the securing hook are arranged such that both the locking device and the securing hook are operable to act on a side extension arm. It is apparent from the Office Action that the Examiner is taking the position that the tooling attachment 14 corresponds to a “side extension arm”.

Assuming, for the sake of argument alone, that the tooling attachment 14 of Murphy can correspond to a side extension arm, Applicants point out to the Examiner that Murphy discloses that the locking member 13 is rigidly mounted to the tooling attachment 14. Accordingly, as the locking member 13 is rigidly mounted to the tooling attachment 14, it is clear that the locking member 13 is not operable to act on the tooling attachment 14.

In view of the foregoing, Applicants respectfully submit that Murphy does not disclose or suggest the feature of both the locking device and the securing hook being operable to act on a side extension arm, as recited in claim 1.

Further, as noted above, claim 1 also recites that the locking device is arranged in relation to the securing hook such that a release of the locking device leads to a release of the securing hook from an anchorage position. In the Office Action, the Examiner asserts that the turning of the cam arrangement 15 leads to the release of the locking member 13 (see Office Action at page 7). Applicants respectfully submit, however, that the Examiner has misinterpreted the language recited in claim 1.

In particular, based on the above description of Murphy, Applicants note that while the rotation of the cam arrangement 15 may lead to the locking member 13 being disengaged from the cam arrangement 13, Applicants respectfully submit that such an operation does not correspond to the claimed feature of the release of the locking device leading to a release of the securing hook.

In other words, while the cam arrangement 15 and locking member 13 of Murphy can disengage from one another upon rotation of the cam arrangement such that the tooling attachment 14 is unlocked from the boom 12, Murphy does not disclose that a release of the cam arrangement 15 leads to a release of the locking member 13.

In view of the foregoing, Applicant respectfully submits that the Murphy fails to disclose, suggest or otherwise render obvious that a release of a locking device leads to a release of a securing hook from an anchorage position, as recited in claim 1. Accordingly, Applicant submits that claim 1 is patentable over Murphy, an indication of which is kindly requested.

Claims 4 and 7 depend from claim 1 and are therefore considered patentable at least by virtue of their dependency.

II. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited.

If any points remain in issue which the Examiner feels may best be resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

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AMENDMENTS TO THE DRAWINGS

Replacement Formal Drawings for Figures 2a-2c, 3a-3c, 4a-4c, 6a-6c, 7a-7c, 8a-8c, 9a-9c, 10a-10c and 11a-c have been filed concurrently herewith under a separate cover letter.